



General Assembly

February Session, 2014

Raised Bill No. 398

LCO No. 1968



Referred to Committee on BANKS

Introduced by:
(BA)

AN ACT CONCERNING HOME LOANS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-760 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) As used in this section and sections 36a-760a to 36a-760j,
4 inclusive:

5 (1) "APR" has the same meaning as provided in section 36a-746a;

6 (2) "CHFA loan" means a loan made, insured, purchased, subsidized
7 or guaranteed by the Connecticut Housing Finance Authority;

8 (3) "FHA loan" means a loan made, insured, purchased, subsidized
9 or guaranteed by the Federal Housing Administration;

10 (4) "First mortgage loan" has the same meaning as provided in
11 section 36a-485;

12 (5) "Lender" means any person engaged in the business of the

13 making of mortgage loans who is required to be licensed by the
14 Department of Banking under chapter 668, or such person's successors
15 or assigns, and also means any bank, out-of-state bank, Connecticut
16 credit union, federal credit union, out-of-state credit union, or an
17 operating subsidiary of a federal bank or a federally chartered out-of-
18 state bank where such subsidiary engages in the business of making
19 mortgage loans, and their successors and assigns, but does not include
20 any mortgage broker, as defined in this section, or any mortgage loan
21 originator, as defined in section 36a-485;

22 (6) "Mortgage broker" means any person, other than a lender, who
23 (A) for a fee, commission or other valuable consideration, negotiates,
24 solicits, arranges, places or finds a mortgage, and (B) who is required
25 to be licensed by the Department of Banking under chapter 668, or
26 such person's successors or assigns;

27 (7) "Nonprime home loan" means any loan or extension of credit,
28 excluding an open-end line of credit, any mortgage insured under Title
29 II of the National Housing Act, 12 USC 1701 et seq. that satisfies the
30 requirements for a qualified mortgage set forth in 24 CFR 203.19, as
31 amended from time to time, and [further excluding] a reverse
32 mortgage transaction, as defined in 12 CFR 226.33, as amended from
33 time to time:

34 (A) In which the borrower is a natural person;

35 (B) The proceeds of which are to be used primarily for personal
36 family or household purposes;

37 (C) In which the loan is secured by a mortgage upon any interest in
38 one-to-four family residential real property located in this state which
39 is, or when the loan is made, intended to be used or occupied by the
40 borrower as a principal residence;

41 (D) In which the principal amount of the loan does not exceed four
42 hundred seventeen thousand dollars;

43 (E) Where the loan is not a CHFA loan; and

44 (F) In which the conditions set forth in clauses (i) and (ii) of this
45 subparagraph apply, subject to any adjustments made pursuant to
46 clause (iii) of this subparagraph:

47 (i) The difference, at the time of consummation, between the APR
48 for the loan and the conventional mortgage rate is either equal to or
49 greater than (I) one and three-quarters percentage points, if the loan is
50 a first mortgage loan, or (II) three and three-quarters percentage
51 points, if the loan is a secondary mortgage loan. For purposes of such
52 calculation, "conventional mortgage rate" means the most recent
53 contract interest rate on commitments for fixed-rate mortgages
54 published by the Board of Governors of the Federal Reserve System in
55 its statistical release H.15, or any publication that may supersede it,
56 during the week preceding the week in which the interest rate for the
57 loan is set. For purposes of determining the beginning of each weekly
58 period, the first day of each week shall be the effective date for the
59 applicable prime offer rate, as of the date the interest rate is set, as
60 determined in accordance with subparagraph (F)(ii) of this
61 subdivision.

62 (ii) The difference, at the time of consummation, between the APR
63 for the loan or extension of credit and the average prime offer rate for a
64 comparable transaction, as of the date the interest rate is set, is greater
65 than one and one-half percentage points if the loan is a first mortgage
66 loan or three and one-half percentage points if the loan is a secondary
67 mortgage loan. For purposes of this subparagraph, "average prime
68 offer rate" has the meaning as provided in 12 CFR 226.35, as amended
69 from time to time. For purposes of subparagraphs (F)(i) and (F)(ii) of
70 this subdivision, the date the interest rate is set is the last date the
71 interest rate is set, provided the rate is adjusted on or before
72 consummation.

73 (iii) The commissioner shall have the authority, after consideration

74 of the relevant factors, to increase the percentages set forth in clauses
75 (i) and (ii) of this subparagraph. For purposes of this clause, the
76 relevant factors to be considered by the commissioner shall include,
77 but not be limited to, the existence and amount of increases in fees or
78 charges in connection with purchases of mortgages by the Federal
79 National Mortgage Association or the Federal Home Loan Mortgage
80 Corporation and increases in fees or charges imposed by mortgage
81 insurers and the impact, including the magnitude of the impact, that
82 such increases have had, or will likely have, on APRs for mortgage
83 loans in this state. When considering such factors, the commissioner
84 shall focus on those increases that are related to the deterioration in the
85 housing market and credit conditions. The commissioner may refrain
86 from increasing such percentages if it appears that lenders are
87 increasing interest rates or fees in bad faith or if increasing the
88 percentages would be contrary to the purposes of sections 36a-760 to
89 36a-760f, inclusive. No increase authorized by the commissioner to a
90 particular percentage shall exceed [~~one-quarter~~] three-quarters of one
91 percentage point, and the total of all increases to a particular
92 percentage under this clause shall not exceed one-half of one
93 percentage point. No increase shall be made unless: (I) The increase is
94 noticed in the Banking Department Bulletin and the Connecticut Law
95 Journal, and (II) a public comment period of twenty days is provided.
96 Any increase made under this clause shall be reduced proportionately
97 when the need for the increase has diminished or no longer exists. The
98 commissioner, in the exercise of his discretion, may authorize an
99 increase in the percentages with respect to all loans or just with respect
100 to a certain class or classes of loans;

101 (8) "Open-end line of credit" means a mortgage extended by a
102 lender under a plan in which: (A) The lender reasonably contemplates
103 repeated transactions; (B) the lender may impose a finance charge from
104 time to time on an outstanding unpaid balance; (C) the amount of
105 credit that may be extended to the consumer during the term of the
106 plan, up to any limit set by the lender, is generally made available to

107 the extent that any outstanding balance is repaid; and (D) none of the
108 proceeds of the open-end line of credit are used at closing to (i)
109 purchase the borrower's primary residence, or (ii) refinance a
110 mortgage loan that had been used by the borrower to purchase the
111 borrower's primary residence;

112 (9) "Secondary mortgage loan" has the same meaning as provided in
113 section 36a-485.

114 (b) The provisions of sections 36a-760a to 36a-760i, inclusive, shall
115 be applicable to nonprime home loans and mortgages, as appropriate,
116 for which applications have been received on or after August 1, 2008.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2014</i>	36a-760
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Statement of Purpose:

To exclude any mortgage insured under Title II of the National Housing Act that satisfies the requirements for a qualified mortgage under 24 CFR 203.19 from the definition of a nonprime home loan.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]